IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11642 of 2004

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HAMIRJI KHODAJI DODIA

Versus

STATE OF GUJARAT

Appearance:

MR SHAKTISINH GOHIL for Petitioner No. 1

MR MR MENGDEY, AGP, for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 02/11/2004

ORAL JUDGEMENT

1. Rule. Mr. M.R. Mengdey, learned AGP waives service of rule. At the request of learned counsels the matter is taken up for final hearing today.

2. In this petition the petitioner has challenged

the order dated 17.9.2002 at Annexure-A and order dated 18.7.2003 passed by the respondent nos.1 and 2 respectively whereby the licence of the petitioner has been cancelled.

3. The petitioner was having a licence to hold a rifle being Licence No.BK/76/92. The Deputy Collector sent a report to respondent no.2 stating that the petitioner has involved in a quarrel and there is a criminal case lodged before Suigam Police Station being C.R. No.37/98. In pursuance of the same respondent no.2 has passed an order cancelling the licence of the petitioner. The petitioner carried the matter by way of appeal before respondent no.1 which came to be dismissed by order dated 17th September 2002. Hence the present petition.

4. Learned counsel for the petitioner submitted that the name of the petitioner is not mentioned in the complaint nor the petitioner was party to the alleged incident. In fact the competent Court has acquitted all the accused in connection with the aforesaid criminal complaint and therefore there was no justification for the respondent authority to cancel the licence of the petitioner.

5. Learned counsel for the respondent is unable to contest the proposition that the name of the petitioner is not mentioned in the criminal complaint and that all the accused in the alleged criminal complaint have been acquitted. Therefore, the case of the petitioner is required to be accepted.

5. In the premises aforesaid, the impugned orders at Annexures-A and E are quashed and set aside. The petitioner shall approach the respondent authorities within two weeks from today with an application to consider his case for grant of licence. If such an application is made, the respondent authorities shall consider the said application in light of the above facts. The respondent authority shall consider and take a decision afresh, without being influenced by the order at Annexure-A, within a period of three months from the date of receipt of the application from the petitioner. Rule is made absolute to the aforesaid extent with no order as to costs. D.S. permitted.

[K.S. JHAVERI, J.]

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